

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DORA DAVIS,)
)
)
Plaintiff,)
)
)
v.)
)
)
ALBANY INTERNATIONAL)
CORP.; JEFF JOHNSTON,)
)
)
Defendants.)

DEFENDANTS' JOINT MOTION FOR EXTENSION OF TIME

Defendants Albany International Corporation (“Albany”) and Jeff Johnston (“Johnston”) jointly request additional time in which to file their replies to the plaintiff’s late-served responses to their motions for summary judgment. In support thereof, Albany and Johnston state as follows:

1. Rather than complying with this Court's CM/ECF requirements, the plaintiff hand-filed her responses to the defendants' respective motions for summary judgment at 11:58 p.m. on July 19, 2006, the date set forth by the Court's briefing schedule.

2. When the plaintiff hand-filed her responses, it is Defendants' understanding that she did not simultaneously submit all of the evidentiary materials described in her responses. Accordingly, the clerk's office did not upload the responses to the Court's website until July 21, 2006, when it received *Exhibit A: Affidavit of Vicky U. Toles*, which had been omitted from the original filing on July 19, 2006.¹

3. Although the plaintiff filed her response on the required date, she did not serve it on that date. The responses served on both defendants are postmarked July 20, 2006. The

¹ This information was confirmed with the clerk's office via telephone conversation on July 21, 2006.

plaintiff did not provide Albany or Johnston with a copy of her response via facsimile, electronic mail, or any method other than service via United States mail. Accordingly, Albany and Johnston did not receive their service copies until July 21, 2006, two days after the responses were filed and two days after Albany and Johnston should have received notice of such filing via CM/ECF.

4. Having failed to receive notice via CM/ECF or otherwise of the plaintiff's filing of a response on July 19, 2006, the defendants filed a Joint "Reply" in Support of Their Motions for Summary Judgment on July 20, 2006. The defendants' "reply" was premature, although they could not have known of its prematurity at the time it was filed.

5. The Court's originally scheduled deadline for the defendants' reply briefs is July 26, 2006, one week after the plaintiff's deadline to file a response. Because the defendants did not timely receive the plaintiff's response, they respectfully request that this Court grant them two additional days to file a reply brief. The new deadline for defendants' reply briefs would be July 28, 2006, one week after the defendants received the plaintiff's responses.

WHEREFORE, defendants Albany International Corporation and Jeff Johnston respectfully request that this Court grant their motion to extend the deadline to file their reply brief in support of their motions for summary judgment to July 28, 2006.

/s Charles A. Powell IV
 Charles A. Powell IV
 Attorney for Defendant
 Albany International Corporation

OF COUNSEL:

**BAKER, DONELSON, BEARMAN,
 CALDWELL & BERKOWITZ, P.C.**
 420 Twentieth Street North, Suite 1600
 Birmingham, Alabama 35203
 (205) 244-3822 Telephone
 (205) 488-3822 Facsimile

/s Lynlee Wells Palmer

Lynlee Wells Palmer
One of the Attorneys for Defendant
Jeff Johnston

OF COUNSEL:

JOHNSTON BARTON
PROCTOR & POWELL LLP
2900 AmSouth/Harbert Plaza
1901 Sixth Avenue North
Birmingham, Alabama 35203
(205) 458-9400 Telephone
(205) 458-9500 Facsimile

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2006, I electronically filed the above and foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Trina S. Williams, Esq.
Vicky U. Toles, Esq.
TOLES & WILLIAMS, LLP
1015 South McDonough Street
Montgomery, AL 36104

/s Lynlee Wells Palmer
OF COUNSEL